

Before the  
Federal Communications Commission  
Washington, D.C. 20554

MM Docket No. 94-115

In the Matter of

Amendment of Section 73.202(b), RM-8508  
Table of Allotments,  
FM Broadcast Stations.  
(Woodville, Mississippi,  
Clayton and Jena, Louisiana)

**NOTICE OF PROPOSED RULE MAKING  
AND  
ORDER TO SHOW CAUSE**

Adopted: September 22, 1994; Released: October 4, 1994

Comment Date: November 25, 1994

Reply Comment Date: December 12, 1994

By the Acting Chief, Allocations Branch:

1. The Commission has before it the petition for rule making filed by PDB Broadcasting ("petitioner"), permittee of a new FM station, Channel 299A, Woodville, Mississippi, requesting the substitution of Channel 299C3 for Channel 299A at Woodville and modification of its construction permit to specify operation on the higher powered channel. To accommodate the substitution of Channel 299C3 at Woodville, petitioner also requests the substitution of Channel 274A for Channel 257A at Jena, Louisiana, and the modification of Station WJNA(FM)'s license to specify the change in channel; and the substitution of Channel 257A for vacant but applied for Channel 300A at Clayton, Louisiana.<sup>1</sup> Petitioner states it will apply for Channel 299C3 at Woodville and will also reimburse the licensee of Station WJNA(FM) for the reasonable expenses associated with the change in channel at Jena, Louisiana.<sup>2</sup>

2. We believe the public interest would be served by proposing the substitution of Channel 299C3 for Channel 299A at Woodville; the substitution of Channel 274A for

Channel 257A at Jena; and the substitution of Channel 257A for Channel 300A at Clayton, since the proposal could provide Woodville with a wide coverage area FM service. Channel 299C3, Channel 274A, and Channel 257A can be allotted to Woodville, Jena and Clayton, respectively, in compliance with the Commission's minimum distance separation requirements. Channel 299C3 can be allotted Woodville with a site restriction of 21.9 kilometers (13.6 miles) northeast to accommodate petitioner's desired site.<sup>3</sup> Channel 274A can be allotted to Jena, Louisiana, at the transmitter site specified in Station WJNA(FM)'s license.<sup>4</sup> Also petitioner's proposal to upgrade its facilities at Woodville is fully spaced to Channel 257A, Clayton, Louisiana, at the reference coordinates, as well as the coordinates specified in Clayton FM's application.<sup>5</sup> Therefore, we direct an *Order to Show Cause* to the licensee of Station WJNA(FM) why its license should not be modified to specify operation on Channel 274A as proposed herein instead of the present Channel 257A.

3. As requested, we shall propose to modify the construction permit of petitioner's new FM station at Woodville, Mississippi, to specify operation on Channel 299C3. In accordance with Section 1.420(g) of the Commission's Rules we will not accept competing expressions of interest or require that the petitioner demonstrate the availability of an additional equivalent channel at Woodville, Mississippi.

4. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Woodville, Mississippi	299A	299C3
Jena, Louisiana	257A	274A
Clayton, Louisiana	300A	257A

5. Accordingly, IT IS ORDERED. That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Little River Radio Company, licensee of Station WJNA(FM), Jena, Louisiana, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 274A as proposed herein instead of the present Channel 257A.

6. Pursuant to Section 1.87 of the Commission's Rules, Little River Radio Company, may, not later than **November 25, 1994**, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. The Commission may call on Little

<sup>1</sup> According to Commission's records, Clayton FM Partnership ("Clayton FM") has filed an application for a construction permit (BPH-940113MD) for Channel 300A at Clayton, Louisiana. Therefore, we will serve a copy of this *Notice of Proposed Rule Making* on Clayton FM.

<sup>2</sup> Although the petitioner's request was signed, PDB Broadcasting failed to include an affidavit verifying that the statements contained in its petition were accurate to the best of its knowledge. Section 1.52 of the Commission's Rules requires that the original of any document filed with the Commission by a party not represented by counsel be signed and verified by the party and his/her address stated. In the absence of such verification, the petition may be dismissed. Section 1.420(b) of the Commission's Rules concerning rule making proceedings places

petitioners on notice that their proposal must conform with the requirements of Section 1.52 regarding subscription and verification. See also *Amendment of Sections 1.420 and 73.3584 of the Commission's Rules Concerning Abuses of the Commission's Processes*, 5 FCC Rcd 3911, 3919, n.41 (1990). The petitioner is requested to rectify this omission in his comments.

<sup>3</sup> The coordinates for Channel 299C3 at Woodville are North Latitude 31-13-43 and West Longitude 91-07-22.

<sup>4</sup> The coordinates for Channel 274A at Jena are North Latitude 31-41-51 and West Longitude 92-05-43.

<sup>5</sup> The reference coordinates for Channel 257A at Clayton are North Latitude 31-44-42 and West Longitude 91-32-54. The coordinates specified in Clayton FM's application are North Latitude 31-46-05 and West Longitude 91-34-39.

River Radio Company to furnish additional information. If Little River Radio Company raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, Little River Radio Company will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

7. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this *Notice of Proposed Rule Making and Order to Show Cause* to the licensee of Station WJNA(FM), Little River Radio Company, P.O. Box 1319, Columbia, Louisiana 71418; and to the applicant for Channel 300A at Clayton: Clayton FM Partnership, 10496 Old Hammond Highway, Baton Rouge, Louisiana 70816.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before **November 25, 1994**, and reply comments on or before **December 12, 1994**, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Donald B. Brady, President  
PDB Corporation  
204 Duncan  
Jackson, Mississippi 39202  
(Petitioner)

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See *Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

11. For further information concerning this proceeding, contact Pam Blumenthal, Mass Media Bureau, (202)634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a

request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

#### FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Acting Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

#### APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554.

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.